
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2097 Session of
2018

INTRODUCED BY DAWKINS, KINSEY, SIMS, SOLOMON, DRISCOLL, NEILSON,
DONATUCCI, KIRKLAND, RABB, DAVIS, FRANKEL, MURT, DEAN,
ROEBUCK, HILL-EVANS AND MADDEN, FEBRUARY 16, 2018

REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 16, 2018

AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 23 (Domestic
2 Relations) of the Pennsylvania Consolidated Statutes, in
3 firearms and other dangerous articles, further providing for
4 persons not to possess, use, manufacture, control, sell or
5 transfer firearms, for restoration of firearm rights for
6 offenses under prior laws of this Commonwealth, for licenses,
7 for sale or transfer of firearms and for Pennsylvania State
8 Police; and, in protection from abuse, further providing for
9 relief and for registry or database of firearm ownership and
10 providing for Domestic Violence Firearm Purchase Notification
11 System.

12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

14 Section 1. Section 6105(a), (a.1)(1.1), (c) introductory
15 paragraph, (d) introductory paragraph and (3) and (e)(1) of
16 Title 18 of the Pennsylvania Consolidated Statutes are amended
17 and the section is amended by adding a subsection to read:

18 § 6105. Persons not to possess, use, manufacture, control, sell
19 or transfer firearms.

20 (a) Offense defined.--

21 (1) A person who has been convicted of an offense
22 enumerated in subsection (b) or arrested for or convicted of

1 an offense enumerated in subsection (b.1), within or without
2 this Commonwealth, regardless of the length of sentence or
3 whose conduct meets the criteria in subsection (c) shall not
4 possess, use, control, sell, transfer or manufacture or
5 obtain a license to possess, use, control, sell, transfer or
6 manufacture a firearm in this Commonwealth.

7 (2) (i) A person who is prohibited from possessing,
8 using, controlling, selling, transferring or
9 manufacturing a firearm under paragraph (1) or subsection
10 (b), (b.1) or (c) shall have a reasonable period of time,
11 not to exceed 60 days from the date of the imposition of
12 the disability under this subsection, in which to sell or
13 transfer that person's firearms to another eligible
14 person who is not a member of the prohibited person's
15 household.

16 (ii) This paragraph shall not apply to any person
17 whose disability is imposed pursuant to subsection (c)
18 (6).

19 (a.1) Penalty.--

20 * * *

21 (1.1) The following shall apply:

22 (i) A person convicted of a felony enumerated under
23 subsection (b) [or], arrested for or convicted of a
24 felony enumerated under subsection (b.1) or convicted of
25 a felony under The Controlled Substance, Drug, Device and
26 Cosmetic Act, or any equivalent Federal statute or
27 equivalent statute of any other state, who violates
28 subsection (a) commits a felony of the first degree if:

29 (A) at the time of the commission of a violation
30 of subsection (a), the person has previously been

1 convicted of an offense under subsection (a); or

2 (B) at the time of the commission of a violation
3 of subsection (a), the person was in physical
4 possession or control of a firearm, whether visible,
5 concealed about the person or within the person's
6 reach.

7 (ii) The Pennsylvania Commission on Sentencing,
8 under 42 Pa.C.S. § 2154 (relating to adoption of
9 guidelines for sentencing), shall provide for a
10 sentencing enhancement for a sentence imposed pursuant to
11 this paragraph.

12 * * *

13 (b.1) Domestic violence offenses.--A charge or conviction
14 for the following offenses shall apply to subsection (a) if the
15 victim is a family or household member, sexual or intimate
16 partner or an individual who shares biological parenthood:

17 Section 908 (relating to prohibited offensive weapons).

18 Section 911 (relating to corrupt organizations).

19 Section 912 (relating to possession of weapon on school
20 property).

21 Section 2502 (relating to murder).

22 Section 2503 (relating to voluntary manslaughter).

23 Section 2504 (relating to involuntary manslaughter) if
24 the offense is based on the reckless use of a firearm.

25 Section 2702 (relating to aggravated assault).

26 Section 2703 (relating to assault by prisoner).

27 Section 2704 (relating to assault by life prisoner).

28 Section 2709.1 (relating to stalking).

29 Section 2716 (relating to weapons of mass destruction).

30 Section 2901 (relating to kidnapping).

1 Section 2902 (relating to unlawful restraint).

2 Section 2910 (relating to luring a child into a motor
3 vehicle or structure).

4 Section 3121 (relating to rape).

5 Section 3123 (relating to involuntary deviate sexual
6 intercourse).

7 Section 3125 (relating to aggravated indecent assault).

8 Section 3301 (relating to arson and related offenses).

9 Section 3302 (relating to causing or risking
10 catastrophe).

11 Section 3502 (relating to burglary).

12 Section 3503 (relating to criminal trespass) if the
13 offense is graded a felony of the second degree or higher.

14 Section 3701 (relating to robbery).

15 Section 3702 (relating to robbery of motor vehicle).

16 Section 3921 (relating to theft by unlawful taking or
17 disposition) upon conviction of the second felony offense.

18 Section 3923 (relating to theft by extortion) when the
19 offense is accompanied by threats of violence.

20 Section 3925 (relating to receiving stolen property) upon
21 conviction of the second felony offense.

22 Section 4906 (relating to false reports to law
23 enforcement authorities) if the fictitious report involved
24 the theft of a firearm as provided in section 4906(c)(2).

25 Section 4912 (relating to impersonating a public servant)
26 if the person is impersonating a law enforcement officer.

27 Section 4952 (relating to intimidation of witnesses or
28 victims).

29 Section 4953 (relating to retaliation against witness,
30 victim or party).

1 Section 5121 (relating to escape).

2 Section 5122 (relating to weapons or implements for
3 escape).

4 Section 5501(3) (relating to riot).

5 Section 5515 (relating to prohibiting of paramilitary
6 training).

7 Section 5516 (relating to facsimile weapons of mass
8 destruction).

9 Section 6110.1 (relating to possession of firearm by
10 minor).

11 Section 6301 (relating to corruption of minors).

12 Section 6302 (relating to sale or lease of weapons and
13 explosives).

14 Any offense equivalent to any of the above-enumerated
15 offenses under the prior laws of this Commonwealth or any
16 offense equivalent to any of the above-enumerated offenses
17 under the statutes of any other state or of the United
18 States.

19 (c) Other persons.--In addition to any person who has been
20 convicted of any offense listed under subsection (b) or arrested
21 for or convicted of an offense listed under subsection (b.1),
22 the following persons shall be subject to the prohibition of
23 subsection (a):

24 * * *

25 (d) Exemption.--A person who has been convicted of a crime
26 specified in subsection (a) or (b), a person who has been
27 arrested for or convicted of a crime specified in subsection
28 (b.1) or a person whose conduct meets the criteria in subsection
29 (c) (1), (2), (5), (7) or (9) may make application to the court
30 of common pleas of the county where the principal residence of

1 the applicant is situated for relief from the disability imposed
2 by this section upon the possession, transfer or control of a
3 firearm. The court shall grant such relief if it determines that
4 any of the following apply:

5 * * *

6 (3) Each of the following conditions is met:

7 (i) The Secretary of the Treasury of the United
8 States has relieved the applicant of an applicable
9 disability imposed by Federal law upon the possession,
10 ownership or control of a firearm as a result of the
11 applicant's prior conviction, except that the court may
12 waive this condition if the court determines that the
13 Congress of the United States has not appropriated
14 sufficient funds to enable the Secretary of the Treasury
15 to grant relief to applicants eligible for the relief.

16 (ii) A period of ten years, not including any time
17 spent in incarceration, has elapsed since the most recent
18 conviction of the applicant of a crime enumerated in
19 subsection (b), arrest for or conviction of a crime
20 enumerated in subsection (b.1), conviction of a felony
21 violation of The Controlled Substance, Drug, Device and
22 Cosmetic Act or the conviction of an offense which
23 resulted in the prohibition under 18 U.S.C. § 922(g) (9).

24 (e) Proceedings.--

25 (1) If a person convicted of an offense under subsection
26 (a), (b) or (c) (1), (2), (5), (7) or (9) or arrested for or
27 convicted of an offense under subsection (b.1) makes
28 application to the court, a hearing shall be held in open
29 court to determine whether the requirements of this section
30 have been met. The commissioner and the district attorney of

1 the county where the application is filed and any victim or
2 survivor of a victim of the offense upon which the disability
3 is based may be parties to the proceeding.

4 * * *

5 Section 2. Sections 6105.1(a)(1) and 6109(i.1)(1) of Title
6 18 are amended to read:

7 § 6105.1. Restoration of firearm rights for offenses under
8 prior laws of this Commonwealth.

9 (a) Restoration.--A person convicted of a disabling offense
10 may make application to the court of common pleas in the county
11 where the principal residence of the applicant is situated for
12 restoration of firearms rights. The court shall grant
13 restoration of firearms rights after a hearing in open court to
14 determine whether the requirements of this section have been met
15 unless:

16 (1) the applicant has been convicted of any other
17 offense specified in section 6105(a) or (b) (relating to
18 persons not to possess, use, manufacture, control, sell or
19 transfer firearms) or arrested for or convicted of an offense
20 under section 6105(b.1) or the applicant's conduct meets the
21 criteria in section 6105(c)(1), (2), (3), (4), (5), (6) or
22 (7);

23 * * *

24 § 6109. Licenses.

25 * * *

26 (i.1) Notice to sheriff.--Notwithstanding any statute to the
27 contrary:

28 (1) Upon conviction of a person for a crime specified in
29 section 6105(a) or (b) or arrest for or conviction of a crime
30 specified under section 6105(b.1) or upon conviction of a

1 person for a crime punishable by imprisonment exceeding one
2 year or upon a determination that the conduct of a person
3 meets the criteria specified in section 6105(c)(1), (2), (3),
4 (5), (6) or (9), the court shall determine if the defendant
5 has a license to carry firearms issued pursuant to this
6 section. If the defendant has such a license, the court shall
7 notify the sheriff of the county in which that person
8 resides, on a form developed by the Pennsylvania State
9 Police, of the identity of the person and the nature of the
10 crime or conduct which resulted in the notification. The
11 notification shall be transmitted by the judge within seven
12 days of the conviction or determination.

13 * * *

14 Section 3. Section 6111 of Title 18 is amended by adding a
15 subsection to read:

16 § 6111. Sale or transfer of firearms.

17 * * *

18 (b.1) Identifying information.--If it has been discovered
19 that a purchaser or transferee is prohibited from possessing a
20 firearm pursuant to section 6105(b.1) or is currently under a
21 foreign protection order as defined in 23 Pa.C.S. § 6102
22 (relating to definitions), the seller shall report the
23 identifying information of the purchaser or transferee,
24 including information regarding the date of the
25 application/record of sale, denial of the application/record of
26 sale and any other information as required by the Pennsylvania
27 State Police, within 24 hours to the Domestic Violence Firearm
28 Purchase Notification System under 23 Pa.C.S. § 6108.6(c)
29 (relating to Domestic Violence Firearm Purchase Notification
30 System) in a format as prescribed by the Pennsylvania State

1 Police.

2 * * *

3 Section 4. Section 6111.1(i) of Title 18 is amended to read:

4 § 6111.1. Pennsylvania State Police.

5 * * *

6 (i) Reports.--The Pennsylvania State Police shall annually
7 compile and report to the General Assembly, on or before
8 December 31, the following information for the previous year:

9 (1) number of firearm sales, including the types of
10 firearms;

11 (2) number of applications for sale of firearms denied,
12 number of challenges of the denials and number of final
13 reversals of initial denials;

14 (3) summary of the Pennsylvania State Police's
15 activities, including the average time taken to complete a
16 criminal history, juvenile delinquency history or mental
17 health record check; [and]

18 (4) uniform crime reporting statistics compiled by the
19 Pennsylvania State Police based on the National Incident-
20 based Reporting System[.];

21 (5) number of firearms sales denied as a result of an
22 individual being arrested for or convicted of an offense
23 enumerated in section 6105(b.1) or being currently under a
24 foreign protection order as defined in 23 Pa.C.S. § 6102
25 (relating to definitions); and

26 (6) number of firearms sales denied for the reasons
27 specified under paragraph (5) which were investigated for
28 potential criminal prosecution and resulted in an arrest,
29 prosecution or conviction.

30 * * *

1 Section 5. Sections 6108(a)(7)(iv) and 6108.4(a) of Title 23
2 are amended to read:

3 § 6108. Relief.

4 (a) General rule.--The court may grant any protection order
5 or approve any consent agreement to bring about a cessation of
6 abuse of the plaintiff or minor children. The order or agreement
7 may include:

8 * * *

9 (7) Ordering the defendant to temporarily relinquish to
10 the sheriff the defendant's other weapons and ammunition
11 which have been used or been threatened to be used in an
12 incident of abuse against the plaintiff or the minor children
13 and the defendant's firearms and prohibiting the defendant
14 from acquiring or possessing any firearm for the duration of
15 the order and requiring the defendant to relinquish to the
16 sheriff any firearm license issued under section 6108.3
17 (relating to relinquishment to third party for safekeeping)
18 or 18 Pa.C.S. § 6106 (relating to firearms not to be carried
19 without a license) or 6109 (relating to licenses) the
20 defendant may possess. A copy of the court's order shall be
21 transmitted to the chief or head of the police force or
22 police department of the municipality and to the sheriff of
23 the county of which the defendant is a resident. When
24 relinquishment is ordered, the following shall apply:

25 * * *

26 (iv) Unless the defendant has complied with
27 subparagraph (i)(B) or section 6108.2 or 6108.3, if the
28 defendant fails to relinquish any firearm, other weapon,
29 ammunition or firearm license within 24 hours or upon the
30 close of the next business day due to closure of

1 sheriffs' offices or within the time ordered by the court
2 upon cause being shown at the hearing, the sheriff shall,
3 at a minimum, provide immediate notice to the court, the
4 plaintiff and appropriate law enforcement agencies. If
5 the court determines that there is a substantial risk of
6 immediate abuse, the court shall order the defendant to
7 surrender the defendant's firearms to law enforcement.
8 Upon service of the order, law enforcement shall
9 immediately take possession of the defendant's firearms
10 and firearm license issued under section 6108.3 or 18
11 Pa.C.S. § 6106 or 6109.

12 * * *

13 § 6108.4. Registry or database of firearm ownership.

14 (a) Confidentiality.--Information retained to ensure
15 compliance with this chapter and to document the return of
16 firearms shall not be subject to access under the [act of June
17 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know
18 Law.] act of February 14, 2008 (P.L.6, No.3), known as the
19 Right-to-Know Law.

20 * * *

21 Section 6. Title 23 is amended by adding a section to read:

22 § 6108.6. Domestic Violence Firearm Purchase Notification
23 System.

24 (a) Establishment.--The Pennsylvania State Police shall
25 establish and maintain the Domestic Violence Firearm Purchase
26 Notification System to alert victims, the general public and law
27 enforcement agencies if:

28 (1) an individual has been arrested for or convicted of
29 a domestic violence-related offense or subject to a
30 protection from abuse order; and

1 (2) has attempted to purchase a firearm from a licensed
2 firearms dealer.

3 (b) Notice.--The Domestic Violence Firearm Purchase
4 Notification System shall automatically notify a registered
5 person via the registered person's choice of telephone or e-mail
6 when an individual meets the criteria under subsection (a).

7 (c) Registration.--The Domestic Violence Firearm Purchase
8 Notification System shall allow a person to:

9 (1) register to receive notices under subsection (b);
10 and

11 (2) update the person's registration information by
12 calling a toll-free telephone number or by accessing a
13 publicly accessible Internet website.

14 (d) Civil immunity.--Absent a showing of gross negligence or
15 willful misconduct, a public employee or public official shall
16 be immune from civil liability for damages for the release of
17 information or the failure to release information in the
18 Domestic Violence Firearm Purchase Notification System.

19 Section 7. This act shall take effect in 60 days.